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Chairman: Mr. Butagira ..... (Uganda)

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05-59423 (E)

The meeting was called to order at 3.10 p.m.

Agenda item 71: Human rights questions (*continued*) (A/C.3/60/L.32, L.38, L.39, L.47 and L.51)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/60/L.32, L.38 and L.39)

Draft resolution A/C.3/60/L.32: Establishment of a United Nations human rights training and documentation centre for South-West Asia and the Arab region

1. **Mr. Al-Thani** (Qatar), introducing the draft resolution on behalf of the original sponsors and Afghanistan, Algeria, Libya, Myanmar and Saudi Arabia, said that the idea of establishing a United Nations human rights training and documentation centre for South-West Asia and the Arab region was the result of a joint initiative between the State of Qatar and the Office of the High Commissioner for Human Rights (OHCHR) during the twelfth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region, held in 2004. Since then, Qatar and OHCHR had been working together to make the initiative a reality. In that regard, OHCHR had undertaken two missions to Doha and other capitals in the region to discuss key elements concerning the centre's establishment and the steps required to facilitate the adoption of a resolution by the General Assembly. They had also worked together to increase support for the initiative at various forums, including the Council of the League of Arab States, the Gulf Cooperation Council, the Commission on Human Rights, the South American and Arab Countries Summit, and the thirteenth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region.

2. The overall objective of the centre was to help promote human rights in the region by providing training, documentation, dissemination of information, studies and exchanges of experiences. Its objectives were, inter alia, to cooperate with Governments on the adoption of human rights policy frameworks, to build the capacity of government institutions and law enforcement officials responsible for the rule of law, to empower national human rights institutions, to strengthen civil society organizations, to support and initiate human rights programmes in schools, to cooperate with regional organizations and to integrate a human rights perspective into the work of the United Nations agencies and programmes.

3. The centre would work under the direction and supervision of OHCHR and in close cooperation with its regional offices, other United Nations agencies, human rights organizations and national human rights institutions. The State of Qatar would host the centre, provide equipped premises and other related logistical requirements and contribute to its activities. OHCHR, meanwhile, would take care of the centre's operational and functional costs, including staffing and administration.

4. **Mr. Gustafik** (Deputy Secretary of the Committee) announced that Cape Verde had also joined in sponsoring the draft resolution.

Draft resolution A/C.3/60/L.38: Human rights in the administration of justice

5. **Mr. Gustafik** (Deputy Secretary of the Committee) said that the draft resolution should have been submitted under agenda item 71 (b), not 71 (c), as indicated in the document.

6. **Mr. Unger** (Austria), speaking on behalf of the original sponsors and Japan, introduced the draft resolution, referring in particular to the importance of an independent and impartial judiciary (fourth preambular paragraph), access to justice (sixth preambular paragraph), full and effective implementation of existing standards (para. 1) and capacity-building in post-conflict situations (para. 10). He also drew attention to the references to the work of the Inter-Agency Coordination Panel on Juvenile Justice and the publication entitled "Protecting the rights of children in conflict with the law" (para. 13); the adoption by the Economic and Social Council of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, set out in the annex to resolution 2005/20 of 22 July 2005 (para. 14); the final report of the independent expert for the United Nations study on violence against children (para. 15); and the Peacebuilding Commission and the Rule of Law Assistance Unit (para. 17). He hoped that, as in previous bienniums, the draft resolution would be adopted without a vote.

7. **Mr. Gustafik** (Deputy Secretary of the Committee) announced that Albania, Serbia and Montenegro, and Turkey had also joined in sponsoring the draft resolution.

Draft resolution A/C.3/60/L.39: Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

8. **Mr. Gustafik** (Deputy Secretary of the Committee) said that the draft resolution should have been submitted under agenda item 71 (b), not 71 (c), as indicated in the document.

9. **Mr. Unger** (Austria), introducing the draft resolution on behalf of the original sponsors and Costa Rica, El Salvador, Mexico and Norway, said that, as noted in the 2005 World Summit Outcome (General Assembly resolution 60/1, para. 130), the promotion and protection of the rights of persons belonging to minorities, which could only be achieved by promoting tolerance, mutual understanding and pluralism, contributed to political and social stability and peace and enriched the cultural diversity and heritage of society.

10. Turning to the draft resolution, he drew particular attention to the appointment of the independent expert on minority issues by the United Nations High Commissioner for Human Rights on 29 July 2005 (ninth preambular paragraph); the call for the Working Group on Minorities of the Subcommission on the Promotion and Protection of Human Rights to focus its work on conceptual support of, and dialogue with, the independent expert (para. 14); and — in line with the revisions that he would read out — the invitation to the High Commissioner to facilitate the effective participation of representatives of non-governmental organizations and persons belonging to minorities, in particular those from developing countries, in minority-related activities organized by the United Nations (para. 16).

11. In that regard, he announced the following revisions: in paragraph 5, the words "without discrimination" should be inserted after "development of their country"; and in paragraph 16, the words "of minority representatives and experts on minority issues, particularly from developing countries" should be replaced by "of representatives of non-governmental organizations and persons belonging to minorities, in particular those from developing countries". He hoped that, as in the previous bienniums, the draft resolution would be adopted without a vote.

12. **Mr. Gustafik** (Deputy Secretary of the Committee) announced that the Dominican Republic, Ethiopia, Guatemala and the Republic of Moldova had also joined in sponsoring the draft resolution.

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/C.3/60/L.47 and L.51)

Draft resolution A/C.3/60/L.47: Situation of human rights in the Sudan

13. **Mr. Gustafik** (Deputy Secretary of the Committee) said that Israel should have been listed as an original sponsor of the draft resolution.

14. **Mr. O'Neill** (United Kingdom), introducing the draft resolution on behalf of the original sponsors, including the members of the European Union, and also Croatia, Norway and Serbia and Montenegro, said that the sponsors continued to believe that the situation of human rights in the Sudan merited being addressed by the Committee. He highlighted a number of significant developments which the sponsors welcomed, including the appointment of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan; the visits to the Sudan by the Special Rapporteur, the Representative of the Secretary-General on internally displaced persons and the Special Adviser on the Prevention of Genocide; the adoption of the interim constitution; and the progress made in implementing the Comprehensive Peace Agreement. The sponsors also commended the cooperative spirit in which the Government of National Unity had welcomed the Special Rapporteur and the Special Adviser, while continuing to pay tribute to the leadership role played by the African Union.

15. However, the sponsors continued to have grave concerns regarding the widespread violations of human rights and humanitarian law in Darfur and the continuing human rights violations throughout the Sudan. The draft resolution therefore called on the Government of National Unity to end violations of human rights and the prevailing culture of impunity (para. 5 (d)) and to cooperate fully with the International Criminal Court (para. 5 (c)).

16. The text before the Committee addressed human rights and humanitarian issues in a comprehensive and balanced manner, while giving due attention to positive developments in the country. It also built on Security Council resolutions 1590 (2005), 1591 (2005) and 1593 (2005). The sponsors were committed to working closely with all interested delegations, in particular those of the African Union, to ensure that the draft resolution was adopted by the General Assembly. It was important for the international community to send a strong signal that human rights violations could not be tolerated and that the atrocities and prevailing culture of impunity in Darfur must be brought to an immediate end. He therefore urged Member States to support the draft resolution.

Draft resolution A/C.3/60/L.51: Situation of human rights in Uzbekistan

17. **Mr. O'Neill** (United Kingdom), introducing the draft resolution on behalf of the original sponsors, including the members of the European Union, and also Norway and Serbia and Montenegro, said that the following revisions should be made to the text: paragraph 2 (h) should be deleted; in paragraph 4 (b), the words "the 1967 Protocol thereto" should be replaced by "its 1967 Protocol"; and paragraph 4 (i) should read "To allow International Committee of the Red Cross representatives unimpeded access to persons detained, in accordance with its working procedures;". There was also an editorial mistake in paragraph 4 (e), which should refer not to the "Independent Expert on the protection of human rights and fundamental freedoms while countering terrorism", but to the "Independent Expert on the situation of human rights in Uzbekistan".

18. The sponsors welcomed the steps taken to implement the National Action Plan on Torture and the recommendations of the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment, and the decision by the President of Uzbekistan to abolish the death penalty by 1 January 2008. In that regard, it strongly urged the Government of Uzbekistan to introduce an immediate moratorium on the death penalty.

19. Despite those developments, the sponsors were gravely concerned by the Government's actions in Andijan in May 2005 and its subsequent response. There had been a clear deterioration in the human rights situation in Uzbekistan and a refusal by the Government to cooperate with, or address the concerns of, the international community. Credible reports indicated that the authorities had used indiscriminate and disproportionate force to quell unrest in Andijan, resulting in many civilian deaths. The arbitrary arrest and detention of eyewitnesses to the Andijan events had been accompanied by increasing restrictions on freedom of expression, thought, conscience and religion, a refusal to register political parties, and harassment and detention of human rights defenders, journalists and others. In the wake of events in Andijan, the Government had also sought to undermine the work of the United Nations High Commissioner for Refugees (UNHCR) by trying to prevent Uzbek refugees in Kyrgyzstan from travelling to a third country.

20. Noting that the draft resolution called on the Government of Uzbekistan to grant permission for the establishment of an international commission of inquiry into the events in Andijan (para. 4 (a)) and to accede to the 1951 Convention relating to the Status of Refugees (para. 4 (b)), he said that the sponsors of the draft resolution fully supported the activities of UNHCR, the Commission on Human Rights, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Organization for Security and Cooperation in Europe (OSCE) and the International Committee of the Red Cross (ICRC) in Uzbekistan. The sponsors of the draft resolution urged the Government of Uzbekistan to cooperate with those institutions and stood ready to work with the Government to help it ensure full respect for human rights and fundamental freedoms.

21. Noting that it was the first time that a draft resolution on the situation of human rights in Uzbekistan had been before the General Assembly, he said that the scale of the deaths in Andijan, the subsequent deterioration of the human rights situation in the country and the Government's continued refusal to cooperate with, or address the concerns of, the international community all required the General Assembly to address the issue. He urged Member States to support the draft resolution.

22. **Ms. Tuyunbayeva** (Uzbekistan) said that during the ongoing discussions on improving the United Nations human rights machinery, many delegations had made it clear that the United Nations should focus on finding common solutions to common problems,

particularly regarding human rights. As stressed by many, there would be no such improvement until States rejected the practice of double standards, selectivity and politicization, a practice which continued to prevail at the United Nations and was stimulated by the continued efforts of Western countries to submit for consideration country-specific resolutions. Such resolutions had no genuine interest in promoting human rights, but were a way of putting political pressure on individual Member States. They had no effect whatsoever on improving international cooperation on human rights but rather caused confrontation, misunderstanding and mutual distrust. They were designed to condemn, not to pave the way for cooperation and understanding.

23. The introduction by the European Union of a draft resolution on Uzbekistan once again demonstrated the way in which certain States abused their political and financial power to exploit international organizations for their own political agendas. The draft resolution was a politically motivated move by the European Union, which had no genuine interest in democracy or human rights in her country. There was no justification for the European Union to inflate the issue for its own political purposes and bring it unnecessarily to the Committee when Uzbekistan was cooperating fully with the Commission on Human Rights and other United Nations human rights bodies. The submission of the draft resolution significantly undermined Uzbekistan's efforts to ensure full enjoyment of all human rights.

24. If equality and mutual respect were principles of the United Nations, they should apply equally to all. While States of course had individual differences, they also faced common challenges. In her delegation's view, such differences and challenges should be addressed only through dialogue and cooperation. Uzbekistan had always been ready to engage in genuine dialogue with all interested parties in addressing human rights challenges. Her delegation believed that it was in their common interest to resist any attempt to manipulate human rights issues for political purposes and therefore appealed to all Member States to exercise a high degree of objectivity and support Uzbekistan by voting against the draft resolution.

Agenda item 69: Elimination of racism and racial discrimination (*continued*) (A/60/18)

(a) Elimination of racism and racial discrimination (*continued*) (A/60/283 and 440; A/C.3/60/4)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*) (A/60/307 and 440)

Agenda item 70: Right of peoples to self-determination (*continued*) (A/60/111, 263, 268 and 319)

25. **Mr. Saeed** (Sudan) said that racism, racial discrimination and xenophobia, especially towards migrants, refugees and ethnic minorities, were deeply disturbing. Cultural or ethnic supremacism and efforts to destroy the "other" were completely contrary to the teachings of the revealed religions and humanitarian principles. The Sudan's interim constitution stipulated citizenship without discrimination on the basis of colour, ethnicity, religion, language, or any other ground. The Durban Declaration and Programme of Action constituted progress, but the recent trend towards disparaging certain religious heritages had led to a clash of civilizations that spawned radicalism and threatened peace and security. In particular, in the wake of the regrettable terrorist attacks of 11 September, Muslim and Arab communities had been subject to discrimination that affected all aspects of their lives. The international community needed to take immediate steps to instil a culture of dialogue and acceptance to counter that danger.

26. The Sudan concurred with the African Union's position that the right to self-determination was limited to peoples who had suffered colonialism or foreign occupation and should not be used as a pretext for partitioning the territory, destroying the social fabric, or interfering in the internal affairs of any State. In that regard, the international community needed to devote the necessary attention to implementation of United Nations resolutions relating to the right of the Palestinian people to self-determination in an independent State in Palestine with Jerusalem as its capital.

27. **Mr. Alrashidan** (Saudi Arabia) said that the need to eliminate racism, xenophobia and discrimination was highlighted by recent efforts in the media to distort the image of Islam and defame the Prophet Muhammad

under the cover of freedom of expression. The Kingdom of Saudi Arabia was pained by the phenomenon of "Islamophobia", and wished to take special note of the Special Rapporteur's concern about the growing number of counter-terrorism policies and programmes that generated new forms of discrimination against groups and entire communities, religions and spiritual traditions.

28. **Ms. Joseph** (Saint Lucia), speaking on agenda item 70, said that the principle of self-determination of peoples, a fundamental precept of the international community, was established in Articles 1 and 55 of the Charter of the United Nations and reaffirmed in the 2005 World Summit Outcome. It formed the foundation of international instruments to protect and promote human rights, eliminate racial discrimination and achieve decolonization.

29. Self-determination had continued to elude the people of the remaining Non-Self-Governing Territories, which were mainly small islands, even though it was a fundamental human right, as the General Assembly had reaffirmed in its resolutions 59/134 A and B. The General Assembly had also pointed out that all available options for self-determination were valid as long as they were in accordance with the freely expressed wishes of the peoples concerned and with the principles contained in resolutions of the General Assembly.

30. The international community must accelerate its efforts to provide the peoples of the 16 Non-Self-Governing Territories with a legitimate opportunity to exercise their basic right to self-determination. In accordance with the relevant resolutions of the General Assembly, that goal could be achieved by developing public awareness programmes, involving the Territories in United Nations programmes and emphasizing the right of the people of the Territories to pursue sustainable development by owning and controlling their natural resources.

31. **Ms. Šimonović** (Croatia) said that the report of the Special Rapporteur had demonstrated the need for new ways of addressing persistent racism, racial and ethnic discrimination, xenophobia and related intolerance. Her country was currently preparing a comprehensive national strategy against discrimination which would be based on the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action, and other relevant documents or instruments. The Croatian Constitution set great store by equal rights and freedoms and embodied the principle of equality before the law. It also stipulated that any call or instigation to national, racial or religious hatred or any form of intolerance was prohibited and punishable. Article 14 of the Constitution was supplemented by the 2002 Constitutional Law on National Minorities.

32. In order to combat discrimination against the Roma, the Government had adopted a wide national platform with measures for their integration into society. The Decade of Roma Inclusion 2005-2015 had been proclaimed and a national action plan to improve their economic and social status had been adopted.

33. Croatia had become the third State party to the European Convention on Human Rights to agree to be bound by its Protocol No. 12, which prohibited discrimination on any ground for any legally prescribed rights or obligations and had become an integral part of Croatian legislation. That legislation had been reinforced by new laws and by amendments to the Labour Act, shifting the burden of proof back to the respondent in the event of evidence of any form of discrimination in the workplace.

34. The country had three existing ombudspersons — for gender equality, equal treatment of all persons, and children respectively — and the addition of a fourth, to protect the rights of the disabled, was under way. Under the Criminal Code, the public dissemination of ideas of inferiority or superiority based on any difference whatsoever carried a penalty of 3 to 10 months in prison. The aforementioned actions reflected the authorities' determination to create a comprehensive legal framework for the promotion of human rights and the elimination of all forms of discrimination.

35. **Mr. Gregoire** (Dominica), speaking on behalf of the Caribbean Community (CARICOM), said that issues of racism and racial discrimination evoked profound emotion among the people of the CARICOM member States. Having survived centuries of slavery, indentureship and colonialism, they were all too aware of the attendant ills and their lingering effects on the development process. The international community must remain steadfast in its commitment to usher in a new era free of racism, racial discrimination and xenophobia, and the relevant bodies of the United

Nations system must continue to challenge the international community to maintain its focus on those issues.

36. There were, indeed, disturbing signs of a retreat in the struggle against those societal ills. The CARICOM States were alarmed at the growing popularity in some Member States of political parties that were promoting racism and xenophobia and supported the recommendations contained in the report of the Special Rapporteur (A/60/283) regarding discrimination at airports and other borders and racism in sports. They also supported the continuation and expansion of the Special Rapporteur's mandate.

37. Noting the broad range of activities undertaken by OHCHR and the important work of the Group of Independent Eminent Experts on the Implementation of the Durban Declaration and Programme of Action, he particularly commended OHCHR on its support to the Working Group of Experts on People of African Descent, whose 2004 session had focused on racism in employment, health and housing. CARICOM welcomed the Group's decision to conduct country visits for an in-depth analysis of conditions on the ground and looked forward to the report on its fifth session.

38. At the regional level, CARICOM acknowledged the important 2005 workshop held in Brazil and sponsored by the Pan American Health Organization and OHCHR on overcoming discrimination through the effective implementation of the Millennium Development Goals, It encouraged such collaboration among regional and international institutions. It also took note of the important seminar organized in Santiago, Chile, by the Economic Commission for Latin America and the Caribbean (ECLAC) on the indigenous and Afro-descendant peoples of the Americas. Such ECLAC initiatives should in future include a wide range of countries, especially Caribbean countries, home to the largest concentration of Afro-descendant people in the hemisphere.

39. CARICOM supported the provisions of General Assembly resolution 59/176 on the International Convention on the Elimination of All Forms of Racial Discrimination and commended the relevant treaty body on its monitoring of compliance with the Convention and its engagement in the follow-up to the Durban process. CARICOM also supported the speedy implementation of the initiatives contained in General Assembly resolution 59/177 on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive follow-up to the Durban Programme of Action. The international community must continue to ensure that the decisions of Durban were given effect for the benefit of the marginalized, those who were discriminated against because of race and other factors, the formerly colonized and those who still remained under colonial domination. The international community must unite under the banner of equal rights and justice.

40. **Mr. Cardoso** (Brazil) acknowledged the persistence of racial discrimination in Brazil, a multicultural society that contained the largest number of Afro-descendants in the world outside of Africa. Racial inequality and discrimination could be clearly observed in levels of income, literacy rates and the incidence of poverty. For that reason, Brazil understood that a purely universal policy that disregarded disparities among racial groups would merely perpetuate existing inequalities. The Special Secretariat of Policies for the Promotion of Racial Equality, created in 2003, coordinated and implemented the National Policy for the Promotion of Racial Equality adopted in the same year. It had made affirmative action a priority and had established incentives for quotas in universities and the workplace.

41. In 2002, the Ministry of External Relations had implemented an affirmative action programme under which Afro-Brazilians were awarded grants to study for the Diplomatic Academy's entrance examinations. The National Policy also sought to coordinate the various ministries' measures that targeted the Afro-Brazilian population living in poverty, including support for health and housing programmes, as well as capacity-building and access to credit for businesses run by Afro-Brazilians. It also placed particular emphasis on fostering international cooperation for the promotion of racial equality. In that connection, Brazil intended to host a regional conference of the Americas on racism and the follow-up to Durban in 2006 and had sponsored the creation of a working group at the Organization of American States with a view to elaborating an inter-American convention against racism and racial discrimination.

42. His delegation trusted that the Special Rapporteur's recent visit to Brazil had enabled him to appreciate the challenges the country faced in its

promotion of racial equality, and it looked forward to his recommendations. Racial equality could be achieved only with the involvement of State and non-State actors at all levels. Defenders of racial equality were often genuine heroes. In that connection, he paid tribute the late Rosa Parks, who, with her courage and determination had helped write an important page in history.

43. **Mr. Hyassat** (Jordan) said that the right to self-determination was of great importance to the international community in promoting and enhancing friendly relations among States and nations. It embodied the free will and aspirations of peoples to determine their own political status, as well as their economic, social and cultural development. That was the general principle of self-determination, as embodied in the Charter of the United Nations, the International Covenants on Human Rights, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and as confirmed most recently in the World Summit Outcome. The same was true of the right to self-determination in colonial situations, in which people remained under alien domination or foreign occupation. That right had been confirmed by the Human Rights Committee and as a rule of customary international law and an *erga omnes* obligation in regional and international case law.

44. Against that backdrop, it was alarming to note that the right of the Palestinian people to self-determination was still being denied by Israel, as the International Court of Justice had pointed out in its advisory opinion on the separation wall. Jordan therefore called on the Government of Israeli to fulfil its obligations under international law and all relevant United Nations resolutions so that the Palestinian people could freely exercise the right to establish their own sovereign State. Fulfilment of those obligations would not only end the violence but also lead to a just and lasting peace agreement in which the two-State solution could become a reality, and Israel and the entire region could enjoy peace and security.

45. **Mr. Meron** (Israel) said that his country's dedication to the fight against racism, prejudice and intolerance was deeply rooted in the Bible and in its Declaration of Independence, and the principle of tolerance, pluralism and acceptance of others was firmly established at all levels of its education system. At the international level, Israel's Holocaust Remembrance Authority, in collaboration with similar foreign non-governmental organizations and Israeli universities, had organized a seminar for the Tutsi survivors of the 1994 Rwandan genocide to help them memorialize the past and use it in their future endeavours.

46. It was therefore troubling that, 60 years after the Holocaust, anti-Semitism was still increasing worldwide, with widespread acceptance in some areas. That vicious phenomenon had re-emerged in the form of violent attacks, burning of synagogues, vandalism, desecration of cemeteries, and rhetoric disguised as anti-Zionism. The Jewish people had not been the target of such extreme intolerance since the end of the Second World War. It was distressing that, after centuries of respectful cohabitation of Muslims and Jews in Islamic countries, anti-Semitism had spread like a plague throughout the Muslim world: highly inflammatory television broadcasts — justifying Holocaust deniers, among other things — inflamed an already frustrated and alienated youth, who then vented their anger on Jews. Something must be done to stop media incitement to such virulent anti-Semitism.

47. Israel applauded the efforts of the Special Rapporteur and other United Nations initiatives to combat that dangerous phenomenon. He cited the Secretary-General's asseveration that a United Nations that was not at the forefront of the fight against anti-Semitism and other forms of racism denied its own history; the inclusion of a condemnation of anti-Semitism in the 2005 General Assembly resolution against religious intolerance; the recent adoption of resolution 60/7 designating 27 January as an annual International Day of Commemoration in memory of the victims of the Holocaust; and the special session of the General Assembly to mark the sixtieth anniversary of the liberation of the Nazi death camps, during which an exhibition on Auschwitz had been organized at Headquarters.

48. **Mr. Ndimeni** (South Africa) said that the follow-up to the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had proved to be a slow process, and the political will to implement the Durban Declaration and Programme of Action was woefully lacking.

49. The Government of South Africa had recently embarked on a programme of action to take stock of its

own progress towards transforming the country into a truly non-racial, non-sexist and democratic society. That programme would culminate in a conference in December 2005 at which the Government and civil society organizations would: celebrate the tenth anniversary of the Truth and Reconciliation Commission; undertake a critical review of the programme of action adopted at the National Conference on Racism in 2001; celebrate the establishment of the National Forum against Racism in 2003; and seek to strengthen the work carried out by the various State institutions supporting constitutional democracy.

50. South Africa had actively participated in the sessions of the two working groups on the effective follow-up to the Durban Declaration and Programme of Action and appreciated the valuable support provided by OHCHR. Regrettably, the implementation of the outcomes of the working groups had, to date, been virtually nil. However, his delegation looked forward to examining the issues of racism and the Internet and of complementary standards of existing human rights instruments at the high-level seminar to be held in January 2006.

51. His Government commended the proposal by the group of independent eminent experts to establish a racial equality index. It also welcomed the group's idea of a Durban-plus-five review mechanism which would provide an opportunity for stock-taking in the global fight against racism and racial discrimination. In conclusion, he expressed regret at the failure to achieve the universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination by 2005, as called for by the Durban Conference.

52. **Ms. Davytan** (Armenia) said that the right of peoples to self-determination, a fundamental, universally recognized principle of international law in the Charter of the United Nations and numerous conventions and declarations, entitled all peoples to determine their political status and to pursue freely their economic, social and cultural development. Since 1945, progressive exercise of that right had increased the Organization's membership threefold. However, the principle, despite being universally recognized, had been difficult to implement. Self-determination was often challenged as a threat to territorial integrity or merely a minority issue. Denying it to those who sought it often led to violent conflict.

53. Her Government accepted the importance of territorial integrity, a major principle of international law, but rejected attempts to give it priority over self-determination. There was in fact no hierarchical arrangement of principles of international law: they enjoyed equal standing. Furthermore, human rights — which were paramount, indivisible and interdependent — could not be guaranteed unless the right to self-determination was properly applied. There were no moral or legal grounds for dismissing that inalienable right. What was needed was a balanced framework in which territorial integrity and self-determination could be effectively reconciled with each other on the basis of merit and the individual historical, political and legal background of each case.

54. Azerbaijan's use of the territorial integrity argument in connection with Nagorno Karabakh was a clear — but legally, politically and morally invalid — attempt to create a collision between the two principles described. Nagorno Karabakh had never been part of an independent Azerbaijan, having been forcibly placed under Soviet Azerbaijani rule by an arbitrary decision of Stalin in 1921. Also invalid was the argument that Armenians were merely a minority in Azerbaijan, as despite Soviet Azerbaijan's many minorities, some larger than the Armenian minority, only Nagorno Karabakh, with its 90-per-cent Armenian majority, had been entitled to autonomous status. Under the Soviet Constitution, all such autonomous entities had had the right to secede, a right which the Armenians of Nagorno Karabakh had exercised peacefully on the eve of the downfall of the Soviet Union.

55. A prerequisite for effective realization of the right to self-determination was a mature society able to sustain itself. Nagorno Karabakh had proved its viability by successfully defending itself in the war which Azerbaijan had unleashed against it, by building and sustaining institutions and by holding regular elections, the most recent of which, in June 2005, had been internationally monitored.

56. Her Government was aware that there was no "one-size-fits-all" solution to the complex issue of self-determination, which required intense effort and a commitment to compromise, based on the specificities of each case and current realities. It hoped for success in the Prague Process meetings between the presidents and foreign ministers of Armenia and Azerbaijan. The historic legacy of Stalinist national policy, which had

little respect for the rights and aspirations of the people concerned, must be overcome to ensure lasting peace and stability in the region.

57. **Mr. Aliyev** (Azerbaijan) said that the norms and principles of international law, including the right of peoples to self-determination, were the foundation of his Government's foreign policy and its activities in the international arena. However, it rejected artificial attempts to create contradictions between those norms and principles, particularly the territorial integrity of States and the right of peoples to self-determination. The international documents relating to the right of self-determination, including the 1960 Declaration on the granting of independence to colonial countries and peoples (resolution 1514 (XV)), contained restrictions specifying that the right to self-determination should not be exercised in violation of a State's sovereignty and territorial integrity. A similar restrictive condition appeared in the 1993 Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights.

58. The four resolutions on the conflict between Armenia and Azerbaijan adopted by the Security Council in 1993 reaffirmed respect for the sovereignty and territorial integrity of Azerbaijan. The legal foundation for settlement of the conflict in and around the Nagorny Karabakh region of Azerbaijan proposed by the Organization for Security and Cooperation in Europe (OSCE) confirmed the lack of any clash between the territorial integrity of States and the right of peoples to self-determination. The principles for settlement put forward by OSCE and accepted by all its participating States except Armenia were respect for the territorial integrity of Armenia and Azerbaijan, the highest degree of self-rule within Azerbaijan and guaranteed security for Nagorny Karabakh and all its population.

59. The Committee of Ministers of the Council of Europe had also emphasized the need for the conflict to be settled in a way which respected the rule of law, democracy, human rights, minority rights and the inviolability of frontiers. More recently, in 2005, a resolution of the Parliamentary Assembly of the Council of Europe reiterated that, in occupying a foreign country, a Council of Europe member State was violating its obligations as a member of the organization. The resolutions and decisions described reflected the status of Nagorny Karabakh as part of Azerbaijan. Had it been otherwise, Azerbaijan's qualifications for admission to membership in the United Nations would have been in question.

60. When determining how to settle the conflict, it was important to recognize that the State must be a common home for all its residents, under conditions of equality and with the opportunity to develop their separate group identities if they so wished. However, neither majorities nor minorities were entitled to assert their identity in ways which denied others the opportunity to do the same or led to discrimination against others. Consequently, settlement of the conflict should be based primarily on the restoration and strict maintenance of Azerbaijan's territorial integrity and the preservation and encouragement of the Armenian minority living in that territory.

61. While his Government wished to point out that international law contained no specific mandatory provisions recognizing the right of minorities to self-determination or autonomy, some forms of self-rule were a practical means of ensuring the preservation of a national identity or ethnic group. His Government had repeatedly stated — at the highest level — that it was willing to grant Nagorny Karabakh the greatest degree of self-rule within Azerbaijan.

62. A settlement of the conflict would remain unattainable so long as one party ignored not only the efforts of another party but also the decisions of international forums such as the Security Council, and so long as it persisted in trying to impose on the international community its own interpretations of the norms and principles of international law, including the right of peoples to self-determination. His Government hoped sincerely that the Prague Process would yield positive results and that it would be possible to take advantage of the forward momentum in order to implement the decisions of the Security Council.

63. **Mr. Meron** (Israel), speaking in exercise of the right of reply, said that he felt obliged to comment on the remarks made by a number of delegations the previous day in connection with the Palestinian right to self-determination. In his statement at the 2005 World Summit, Israeli Prime Minister Ariel Sharon had stated that the Jewish people's right to the Land of Israel did not mean disregarding the rights of others in the land. Israel respected the Palestinians, its neighbours, had no aspirations to rule over them, and asserted that they were entitled to freedom and to a national, sovereign existence in a State of their own. Israel had recognized

the legitimate rights of the Palestinian people 25 years previously, within the framework of the Camp David Accords. Since then, it had entered into further agreements, all aimed at an end to the conflict and implementation of those rights.

64. A window of opportunity for the region had been established in 2005 with the Sharm el-Sheikh summit and the Gaza disengagement plan. The pursuit of Palestinian self-determination depended on the Palestinian Authority's willingness to complete its first obligation under the road map, namely, to dismantle terrorist infrastructure and collect illegal weapons. It was unclear why that was not taking place. Having spent most of their modern history defending the right to self-determination in their ancient homeland, the Jewish people, who supported the right to self-determination of peoples in general and their Palestinian neighbours in particular, expected from those Palestinian neighbours a de facto and de jure recognition of their own right to self-determination. Unfortunately, statements such as that delivered the day before by the observer for Palestine contradicted that principle. By using inflammatory rhetoric, the Palestinians neither supported dialogue and confidence-building nor served their own ambitions for self-determination.

65. His Government called on the Committee to recognize and support the positive advances of recent months, particularly the disengagement of every Israeli soldier and every civilian from the Gaza Strip and four settlements in the northern West Bank. It hoped that those efforts would lead to a two-State solution so that Israelis and Palestinians could live side by side in peace and security.

66. **Mr. Hijazi** (Observer for Palestine), speaking in exercise of the right of reply, said that racism and racial discrimination against Palestinians were Israeli policies clearly practised and meticulously enforced on the ground. Israel could not therefore escape responsibility for discriminating against Palestinians in the occupied Palestinian territories and against its non-Jewish citizens, including indigenous Palestinians. Israel should respect the International Convention on the Elimination of All Forms of Racial Discrimination, of which it was a signatory.

67. While in both policy and practice the Palestinian leadership opposed all attacks against civilians from both sides, the State of Israel planned, facilitated and executed such attacks, including extrajudicial executions of Palestinian activists and political figures which often injured and killed innocent bystanders. The Palestinian leadership had secured an agreement to declare and adhere to a unilateral ceasefire, yet the occupying Power had insisted on provoking and invoking violent reactions — such as in the case of the Hadera attack, which the Palestinian leadership had condemned — and had killed over 120 Palestinians and arrested over 2,000 others. It was unreasonable to expect such reactions to stop while the Israeli military machine continued to wreak havoc in Palestinian cities.

68. With regard to the disengagement from the Gaza Strip, half-truths were not convincing arguments. While the Palestinian leadership and people had welcomed the unilateral Israeli withdrawal as they would have any withdrawal from any part of the Occupied Palestinian Territory, the international community must not be misled. The disengagement was positive in setting a precedent, but it had come 38 years too late and left the Gaza Strip's 1.3 million inhabitants prisoners, denied access to the rest of the Occupied Palestinian Territory and the rest of the world. The Israeli Government often conveniently omitted from its discussion of the disengagement the fact that the occupation forces maintained effective control over land, sea and air access to the Gaza Strip. According to international law, the Gaza Strip therefore remained occupied, and Israel was still obliged to fulfil its obligations as an occupying Power. The problem remained Israel's contempt for the most basic human rights of the Palestinian people and its disregard for international law, including human-rights and humanitarian law, and scores of Security Council and General Assembly resolutions. Only when Israel recognized Palestinian rights through actions rather than hollow statements would peace reign in the region.

Agenda item 39: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*) (A/60/12 and Add.1, 276, 293, 300 and 440)

69. **Mr. Udovenko** (Ukraine) said it was satisfying that marked progress had been made in resolving the refugee situation in Africa in 2004. However, in view of the continuing conflict and human rights abuses around the world, his delegation fully supported the

proposals made by the Secretary-General in his report (A/59/2005) and was committed to the reform of the humanitarian response system.

70. In recent months, a series of tragic events had served as a warning of the hazardous situation affecting migrants in many countries. In the final analysis, migration policy and procedures should focus on respect for human rights, human dignity and the physical and mental integrity of the persons involved.

71. His delegation commended the work of UNHCR in preserving access to asylum for those with a well-founded fear of persecution. The signing of implementation agreements with over 600 non-governmental organizations, of which a large percentage were national organizations including several in Ukraine, was a remarkable achievement. His country was ready to assist UNHCR in establishing appropriate guidelines to build the capacity of national non-governmental organizations to respond effectively to protection and assistance needs in its field operations in Ukraine.

72. Although Ukraine had come under scrutiny as a source and transit country for irregular migrants in recent years, Ukrainian authorities had made significant efforts to harmonize corresponding legislation and promote cross-border cooperation in the region. Ukraine had been developing relations with the European Union, and since May 2004, Poland's boundary with Ukraine had been secured as the Union's eastern border in line with Schengen requirements. It was hoped that the European Union Neighbourhood Policy would facilitate Ukraine's participation in European Union policies and programmes. As Ukraine lacked financial resources for the social protection of its own citizens, let alone asylum-seekers and refugees, it was looking forward to advancing the EU-Tacis Project "Strengthening asylum systems in Ukraine and Moldova".

73. Archbishop Migliore (Observer for the Holy See), speaking on agenda item 39, said that despite the recent decline in the number of refugees, the total population of concern to UNHCR had increased to 19 million and the scale of that phenomenon merited international attention.

74. UNHCR had recently underscored its role as a protection agency. Given that each individual State had the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity, that concept had rightly gained acceptance for humanitarian reasons. Protection of those in distress and assistance to them naturally required lucid analysis and a public awareness of the causes of humanitarian crisis; but crises, by their very nature, demanded swift action and predictable funding. The concept of protection had long-term consequences as it implied more than mere defence from outside hostile forces. It covered the whole spectrum of human rights of those forced to flee, and those rights remained constant during all phases of repatriation, reintegration, rehabilitation and reconstruction. Protection also involved safeguarding a person's physical security and the full enjoyment of rights; creating a safe environment, especially for women, children, the elderly and the disabled; and assuring adequate nutrition.

75. Sustained voluntary repatriation was not only a matter of guaranteeing the return of refugees in safety and dignity but raised the issue of post-conflict reconstruction and establishing an effective link between humanitarian relief and sustainable development.

76. The inability to address internal displacement was now considered the single biggest failure in the humanitarian action of the international community. Protection needs were not related to whether borders were crossed or not. A reliable system, embedded in an appropriate institutional framework, could play an effective role in responding to the security and protection needs of the internally displaced and in helping local authorities fulfil their responsibility towards them.

77. Any peacebuilding process should provide adequate funding for the repatriation of returnees, both for the sake of the returnees themselves and to maintain the standards set by UNHCR.

78. **Mr. Tesfu** (Ethiopia), speaking on agenda item 39, said that as a signatory to all United Nations and African Union refugee conventions and on account of its traditional open-door policy, his country was currently hosting more than 100,000 refugees in seven refugee camps.

79. The magnitude of the refugee problem in Africa was a strong reminder to Africans of the need to work relentlessly to foster peace, stability, democracy and economic development throughout the continent, and it was therefore encouraging to note the peace initiatives

currently taking place under the auspices of the African Union and subregional organizations. A prime example was the agreement signed between the Government of the Sudan and the Sudan People's Liberation Army/Movement (SPLA/M), which had paved the way for a possible solution to the problem of Sudanese refugees. His Government, in collaboration with UNHCR, had already started the registration of Sudanese refugees in the camps with a view to their eventual repatriation to southern Sudan. He stressed the importance of implementing the peace agreement for Sudanese refugees, as the reintegration programme would require a stable situation.

80. Over the next few years, the repatriation and reintegration of refugees and internally displaced persons to their countries of origin would be one of the main challenges confronting the African continent. Given that sustainable development was inextricably linked to successful repatriation and reintegration, development partners should give due attention to the process of longer-term reconstruction once emergency humanitarian assistance had been dispensed.

81. His delegation strongly believed that the Convention Plus initiative would contribute considerably towards successful voluntary repatriation and durable reintegration. However, it was concerned about the decrease in programme funding which had affected the quality of services provided to refugees. The current budget cuts had had an impact on the already underfunded operations at field level, making the lives of refugees in some African countries, including Ethiopia, extremely difficult. His delegation therefore called upon the international community to respond generously to calls for funding and expressed its support for a needs-based approach to assistance.

82. Reiterating his country's commitment to the continued hosting of refugees and displaced persons, he referred to national legislation that had been enacted in 2004, based on the principles of the Convention on the Status of Refugees (1951) and its Protocol (1967), as well as the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.

83. **Mr. Dall'Oglio** (International Organization for Migration), speaking on agenda item 39, said that the confusion between migration and asylum issues, referred to by the High Commissioner for Refugees in his report (A/60/12), reflected the growing difficulty to distinguish, at times, between forced and voluntary migration. Reduced access to asylum systems, restrictive immigration policies and strengthened border controls often forced both migrants and refugees to use similar modes of travel and methods of entry; they even resorted to the same unscrupulous trafficking and smuggling networks. Preserving an effective asylum regime was therefore linked to the mutual reinforcement of migration and asylum law and practice. UNHCR and the International Organization for Migration (IOM) were working jointly in that area and had organized a regional seminar on properly managed migration in Trinidad and Tobago in October 2005 which was an example of inter-agency coherence.

84. However, inter-agency coherence in addressing migration required a larger framework and IOM shared the view of the High Commissioner that the inter-agency coordination mechanism provided by the Geneva Migration Group had already proved its usefulness for consultation and coordination among the six heads of agency based in Geneva and Vienna. IOM was ready to support its expansion and consolidation, including the participation of other United Nations development and social partner agencies, to ensure that the Group would become a broader inter-agency coordination tool on migration issues.

85. Another area of significant cooperation between the two agencies was the massive displacement in humanitarian situations. The "cluster approach", endorsed by the Inter-Agency Standing Committee had been adopted to guide the inter-agency response to the earthquake in south Asia, and IOM had been entrusted with the role of cluster leader in the area of emergency shelter. In the past year, IOM and UNHCR had collaborated on voluntary repatriation in southern Africa and third-country resettlement from central Asia and had developed complementary responses to the needs of the suffering people in Darfur. IOM looked forward to forging an even stronger working relationship with UNHCR with the overall goal of maximizing the benefits of migration, while enhancing the protection of refugees within the broader migration context.

The meeting rose at 5.35 p.m.